



Mass.gov

TECHNICAL INFORMATION RELEASE

TIR 19-17: Application of IRC § 163(j) Interest Expense Limitation to Corporate Taxpayers

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REFERENCED SOURCES:

Massachusetts General Laws (<https://malegislature.gov/Laws/GeneralLaws>)

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A. Purpose

On December 22, 2017, Public Law 115-97, commonly known as the Tax Cuts and Jobs Act (“TCJA”), was signed into law. The Act amended Internal Revenue Code (“IRC”) § 163(j) to limit the deductibility of interest expense for tax years beginning after December 31, 2017. Specifically, IRC § 163(j), limits the deductibility of net business interest expense (business interest expense less business interest income and floor plan financing interest^[1] (#_ftn1)) to 30% of a taxpayer’s adjusted taxable income (“ATI”).^[2] (#_ftn2)

G.L. c. 63 allows the federal business interest expense (“BIE”) deduction in the determination of Massachusetts taxable net income. Thus, Massachusetts will generally follow the federal limitation on the deduction of interest expense, with certain modifications to account for differences in state and federal computational and filing requirements. This Technical Information Release (“TIR”) provides guidance on the application of IRC § 163(j) to the Massachusetts corporation excise. Specifically, this TIR provides rules for (1) the general calculation and application of the BIE limitation to a business corporation in Massachusetts, (2) the calculation and application of the BIE limitation to a member of a Massachusetts combined group, (3) the carryforward of BIE, (4) the interaction of other Massachusetts limitations with the BIE limitation, and (5) examples illustrating these rules. The Commissioner intends to promulgate regulations adopting the rules set out in this TIR for corporate taxpayers. The Commissioner anticipates addressing the application of IRC § 163(j) to individuals and pass-through entities in future guidance.

B. Amendment to IRC § 163(j)

Under IRC § 163(j) as amended, the federal deduction for BIE is generally limited to 30% of a taxpayer's ATI, plus the full amount of any business interest income and floor plan financing interest. This limitation is referred to herein as the "BIE limitation." For federal purposes, the amount of BIE that is in excess of the BIE limitation ("excess BIE") is carried forward and treated as business interest paid or accrued in the following year;^{[3] (#_ftn1)} but there is no carryforward of any remaining unused BIE limitation.^{[4] (#_ftn2)} The BIE limitation generally does not apply to taxpayers with average taxable receipts of less than \$25 million over the preceding three taxable years.^{[5] (#_ftn3)} In addition, the BIE limitation does not apply to taxpayers engaged in certain trades.^{[6] (#_ftn4)} For C corporations, all interest paid or accrued is considered BIE within the meaning of IRC § 163(j)(5). In addition, all taxable interest income received by a C corporation is considered business interest income within the meaning of IRC § 163(j)(6).^{[7] (#_ftn5)}

C. Massachusetts Corporation Excise

Massachusetts follows the federal interest expense deduction under the current IRC for purposes of the corporation excise. The starting point for the computation of Massachusetts taxable net income for entities subject to tax under G.L. c. 63, §§ 2, 2B, 32D or 39, is federal gross income as defined under the IRC, as amended and in effect for the taxable year (with certain modifications not relevant here). Under these provisions, "net income" is federal gross income less the deductions, but not credits, allowable under the provisions of the IRC, subject to certain Massachusetts limitations. Thus, Massachusetts will follow the new federal limitation on the BIE deduction in IRC § 163(j) for purposes of determining Massachusetts taxable net income, including combined taxable net income reported under G.L. c. 63, § 32B. For example, Massachusetts will follow the small business exemption in IRC § 163(j)(3). Massachusetts will also not apply the limitation to an exempted or electing taxpayer engaged in a certain trade or business under IRC § 163(j)(7). Similarly, for taxable years beginning on or after January 1, 2018, if the computation of a taxpayer's current year BIE deduction in Massachusetts is limited by application of the BIE limitation, a taxpayer may carry forward its excess BIE to the succeeding taxable year consistent with the requirements and limitations set forth in IRC § 163(j) and G.L. c. 63

generally.

Although Massachusetts follows the federal limitation in IRC § 163(j), an entity that is taxable in Massachusetts may have to modify the federal computation of the limitation in order to determine the allowable Massachusetts BIE deduction. The following sections describe how such Massachusetts taxpayers will calculate their current year BIE deduction and any BIE carryforwards for Massachusetts purposes.

D. Application of the BIE Limitation to a Massachusetts Entity

The BIE limitation on deductibility of interest applies in the computation of MA taxable net income. An entity doing business in Massachusetts and subject to net income tax under G.L. c. 63,^[8] [\(#_ftn1\)](#) must calculate the Massachusetts BIE deduction on a separate entity basis; including the calculation of (i) ATI for purposes of calculating the 30% limitation, (ii) business interest income, (iii) floor plan financing interest, and (iv) the application of the small business exemption. ^[9] [\(#_ftn2\)](#)

For purposes of calculating the Massachusetts BIE limitation, an entity's ATI is its separately determined current year federal ATI (without federal eliminations for intercompany transactions and without modification to account for differences between federal and Massachusetts taxable income).

An entity's Massachusetts BIE, business interest income and floor plan financing interest are its federal BIE, business interest income and floor plan financing interest for the current year (i) without the federal elimination for intercompany transactions, and (ii) reduced by any amount included in federal BIE, business interest income and floor plan financing interest that is disallowed under MA law or is subject to add back for Massachusetts purposes.

The Massachusetts deduction for BIE is determined as follows:^[10] [\(#_ftn3\)](#)

1. To the extent that an entity's separately determined Massachusetts BIE limitation exceeds the entity's separately determined current year Massachusetts BIE, the entity's full current year BIE will be allowed as a deduction.
2. To the extent that an entity has a carryforward of Massachusetts BIE, such entity's BIE carryforward will be treated as current year Massachusetts BIE and will be allowed to the extent such entity's current year Massachusetts BIE has not exceeded its Massachusetts BIE limitation.
3. To the extent that an entity's separately determined current year Massachusetts BIE exceeds the entity's separately determined Massachusetts BIE limitation, the entity's current year BIE deduction is limited to the amount of the Massachusetts BIE limitation. The entity's excess BIE may be carried forward. [\[11\]](#) ([#_ftn4](#))
4. Current year BIE must be used before any BIE carryforwards from prior years. Any unused current year BIE limitation cannot be carried forward.

E. Application of the BIE Limitation to a Massachusetts Combined Group

In the case of a Massachusetts combined group, each entity that is a member of the group must first calculate its Massachusetts BIE and BIE limitation on a separate entity basis before sharing its excess BIE at the combined group level. The Massachusetts deduction for BIE for a member of a Massachusetts combined group is determined by applying the following steps, in the order indicated below:

1. Calculate each member's separately determined Massachusetts BIE limitation and BIE amounts. These amounts should be determined (i) without regard to any federal eliminations and (ii) taking into account eliminations for transactions between the entity and other members of the combined group as required by G.L. c. 63, § 32B.

2. To the extent that any member's separately determined Massachusetts BIE limitation exceeds the member's separately determined current year Massachusetts BIE, such member's full current year Massachusetts BIE will be allowed as a deduction.
3. To the extent that any member's separately determined current year Massachusetts BIE exceeds the member's separately determined Massachusetts BIE limitation, such member's excess Massachusetts BIE will be allowed to be shared with another member to the extent that such other member has unused current year BIE limitation.[\[12\]](#) ([#_ftn1](#)) The members may decide how to share any current year excess BIE but all current year BIE must be used before any BIE carryforwards.
4. To the extent that any member has a carryforward of Massachusetts BIE, such member's BIE carryforward will be treated as current year Massachusetts BIE and will be allowed to the extent that such member's current year Massachusetts BIE has not exceeded its separately determined Massachusetts BIE limitation. If such member has Massachusetts BIE carryforward that exceeds its Massachusetts BIE limitation, such member's excess Massachusetts BIE carryforward will be allowed to be shared with another member to the extent that the other member has not exceeded its separately determined Massachusetts BIE limitation. This sharing will be subject to the limitations in section F, below. The members may decide how to share any allowable BIE carryforward in the current year and current year BIE must be used before any BIE carryforwards from prior years.
5. To the extent that any member's separately determined current year Massachusetts BIE (i) exceeds the member's separately determined Massachusetts BIE limitation and (ii) cannot be shared with another member, the member's excess Massachusetts BIE may be carried forward.

F. Calculation of BIE Carryforward Where a Member Leaves or Joins a Massachusetts Combined Group

When an entity that is a member of a Massachusetts combined group leaves that group, the entity retains its separately determined Massachusetts BIE carryforward from prior

years. The BIE carryforward may be used in subsequent years by that entity according to the rules in section D above. However, if the entity subsequently joins another Massachusetts combined group, it will also be subject to the following rules.

An entity that joins a Massachusetts combined group retains its Massachusetts BIE carryforward. The new member may deduct the BIE carryforward against its own separately determined income subject to such member's separately determined Massachusetts BIE limitation, according to the rules in section E. The member's Massachusetts BIE carryforward cannot be shared with another member of the combined group unless the other member was also a member of the same combined group as the new member in the year the BIE was incurred.

G. Interaction of the Add Back Rules with the BIE Limitation

G.L. c. 63, §§ 31I and 31J, require that a taxpayer add back to net income related member interest expenses and costs. The Massachusetts add back adjustments to a member's separately determined Massachusetts BIE must be made at the separate entity level on a pre-apportioned basis. Where an add back is required, the Massachusetts deduction for BIE should be determined by applying the steps set out above, after first reducing current year BIE by the amount of the required add back. Any amount of BIE that is disallowed due to a Massachusetts add back, or any other provision of Massachusetts law, may not be deducted in the current year nor may it be carried forward.

H. Examples

The examples below explain the rules set out in this TIR. As stated above in section D, for purposes of calculating the Massachusetts BIE limitation, an entity's ATI shall be its separately determined current year federal ATI (without regard to federal eliminations of intercompany transactions and without modification to account for differences between federal and Massachusetts taxable income). An entity's Massachusetts BIE, business interest income or floor plan financing interest shall be as defined for federal purposes, but

determined without regard to federal eliminations for intercompany transactions and shall be adjusted for any Massachusetts differences. In the case of a Massachusetts combined group, these amounts shall take into account eliminations for transactions between the entity and other members of the combined group as required by G.L. c. 63, § 32B.

To simplify the calculation of the BIE limitation, the examples assume that none of the entities have any business interest income or floor plan financing interest. The examples also assume that there are no intercompany transactions that need to be adjusted due to differences in the compositions of the federal consolidated group and the Massachusetts combined group.

Example 1 - Applying the Massachusetts BIE limitation in the current year for a single entity.

In Year 1 Company A is a member of a federal consolidated group but is not a member of a Massachusetts combined group. Company A has \$400 of separately determined ATI for federal tax purposes. Company A's separately determined current year BIE is \$500. Company A has no BIE carryforward. To apply the federal BIE limitation for Massachusetts corporation excise purposes the Company should follow these steps:

Step 1: Determine the entity's Massachusetts BIE and BIE limitation.

Company A's separately determined BIE limitation is \$120 (30% of \$400) for Massachusetts purposes. Company A's Massachusetts BIE deduction in Year 1 is \$120.

Step 2: Determine carryforward of BIE.

Company A can carry forward its BIE remaining after taking its current year BIE deduction. The carryforward amount for Year 1 is \$380, determined by reducing Company A's BIE of \$500 by the \$120 of BIE that it is allowed as a deduction in Year 1. Company A can carry forward the \$380 of excess BIE to the subsequent tax year.

Example 2 - Applying Massachusetts BIE limitation in the current year for a Massachusetts combined group.

In Year 1 Company A, Company B and Company C comprise a Massachusetts combined group and a federal consolidated group. Company A has \$400 of separately determined ATI. Company A's current year BIE is \$500 and it has no BIE carryforward. Company B has \$1,200 of separately determined ATI. Company B's current year BIE is \$100 and it has no BIE carryforward. Company C has \$200 of separately determined ATI. Company C's current year BIE is \$0 and it has no BIE carryforward.

To apply the federal BIE limitation for Massachusetts corporation excise purposes the Companies should follow these steps:

Step 1: Determine each Company's separate BIE limitation.

Company A's separately determined BIE limitation is \$120 (30% of \$400) for Massachusetts purposes.

Company B's separately determined BIE limitation is \$360 (30% of \$1,200) for Massachusetts purposes.

Company C's separately determined BIE limitation is \$60 (30% of \$200) for Massachusetts purposes.

Step 2: Determine each Company's BIE limitations for combined filing purposes.

Company A has a separate BIE limitation of \$120 and \$500 of BIE. Company A is allowed a Massachusetts BIE deduction of \$120 and has \$380 of excess BIE. The \$380 of excess BIE can be shared with the other members of the Massachusetts combined group.

Company B has a separate BIE limitation of \$360 and \$100 of BIE. Company B is allowed a Massachusetts BIE deduction consisting of its own BIE of \$100 and up to \$260 more if another member has excess BIE. Company B deducts \$260 of Company A's excess BIE.

Company C has a separate BIE limitation of \$60 and no BIE. Company C is allowed a BIE deduction of up to \$60 if another member has excess BIE. Company C deducts \$60 of Company A's excess BIE.

After sharing with Company B and Company C, Company A has \$60 of excess BIE remaining for Year 1.

Step 3: Determine Carryforward of BIE.

Company A can carry forward the amount of its BIE that remains after taking its own BIE deduction and sharing excess amounts with Company B and Company C. The carryforward amount for Year 1 is \$60, determined by reducing Company A's BIE of \$500 by the \$120 of BIE that it used itself, the \$260 used by Company B, and the \$60 used by Company C. Company A can carry forward the \$60 of excess BIE to the subsequent tax year.

Example 3 - Application of the Massachusetts BIE carryforward rules to a Massachusetts combined group in subsequent years.

Assume the same facts as Example 2 for Year 1. In Year 2 Company A, Company B and Company C remain in the Massachusetts combined group and federal consolidated group. No other companies have joined or left either group. As per the illustration above, Company A has \$60 of BIE that is carried forward from Year 1.

In Year 2, Company A has \$800 of separately determined ATI and its BIE is \$240. Company B has \$1,200 of separately determined ATI and its BIE is \$360. Company C has \$200 of separately determined ATI and its BIE is \$0

To apply the BIE limitation for Massachusetts corporation excise purposes in Year 2, the Companies should follow these steps:

Step 1: Determine each Company's separate BIE limitation in Year 2.

Company A's separately determined BIE limitation is \$240 (30% of \$800) for Massachusetts purposes.

Company B's separately determined BIE limitation is \$360 (30% of \$1,200) for Massachusetts purposes.

Company C's separately determined BIE limitation is \$60 (30% of \$200) for Massachusetts purposes.

Step 2: Determine each Company's BIE limitation for combined filing purposes.

Company A has a separate BIE limitation of \$240 and \$300 of BIE, including its carryforward of \$60. Company A is allowed a Massachusetts BIE deduction of \$240 and has a \$60 BIE carryforward. As the composition of the group has not changed, the \$60 BIE carryforward can be shared with Company B and Company C in the same manner as current year excess BIE.

Company B has a separate BIE limitation of \$360 and \$360 of BIE. Company B is allowed a Massachusetts BIE deduction of \$360 consisting of its own BIE of \$360. Company B cannot use any additional BIE, so the \$60 of Company A's BIE cannot be shared with Company B in Year 2.

Company C has a separate BIE limitation of \$60 and no BIE. Company C is allowed a BIE deduction of up to \$60 if another member has excess BIE or BIE carryforward. Company C deducts \$60 of Company A's BIE carryforward.

After sharing with Company C, Company A has shared all of its BIE carryforward.

Step 3: Determine Carryforward of BIE to Year 3.

After using \$240 of BIE itself and sharing \$60 of BIE carryforward with Company C, Company A now has no excess BIE and no BIE to carry forward to Year 3. Companies B and C likewise have no excess BIE and therefore no carryforward of BIE to Year 3.

Example 4 - Application of Massachusetts BIE carryforward rules to a Massachusetts combined group where a member leaves the group in a subsequent year.

Assume the same facts as Example 2 for Year 1 and Example 3 for Year 2 except that Company A leaves the Massachusetts combined group prior to the start of Year 2 and does not join a new combined group. In Year 2 Company B and Company C must determine the BIE limitation for the combined group without regard to Company A's BIE carryforward or current year BIE limitation or BIE.

To apply the BIE limitation for Massachusetts corporate excise purposes in Year 2, the Companies should follow these steps:

Step 1: Determine each Company's separate BIE limitation.

Company B's separately determined BIE limitation is \$360 (30% of \$1,200) for Massachusetts purposes.

Company C's separately determined BIE limitation is \$60 (30% of \$200) for Massachusetts purposes.

Step 2: Determine each Company's BIE limitation for combined filing purposes.

Company B has a separate BIE limitation of \$360 and \$360 of BIE. Company B is allowed a Massachusetts BIE deduction of \$360 consisting of its own BIE of \$360. Company B has no excess BIE to share with Company C.

Company C has a separate BIE limitation of \$60 and no BIE. Company C is allowed a BIE deduction of up to \$60 if another member has excess BIE or BIE carryforward. However, Company B has no excess BIE to share. Company C's Massachusetts BIE deduction is \$0.

Since Company A is no longer a member in Year 2, Company A cannot share its \$60 BIE carryforward with Company C, regardless of the fact that the BIE was incurred in Year 1 when each corporation was in the Massachusetts combined group.

Step 3: Determine Carryforward of BIE.

Neither Company B nor Company C has any excess BIE to carry forward.

Company C's BIE limitation amount of \$60 is not carried forward. Company A will carry forward its \$60 BIE to Year 3.

Example 5: Application of Massachusetts BIE carryforward rules to a Massachusetts combined group where a member joins a new combined group in a subsequent year.

Assume the same facts as Example 2 for Year 1. In Year 2 Company A leaves the group and joins a combined group consisting of Companies D and E. In Year 2 Company A has \$800 of separately determined ATI and its BIE is \$260. Company D has \$1,200 of separately determined ATI. Its BIE is \$400 and it has no BIE carryforward. Company E has \$400 of separately determined ATI. Its BIE is \$0 and it also has no BIE carryforward.

Company A, Company D and Company E must determine the BIE limitation for the combined group in Year 2 without regard to Company A's BIE carryforward because that carryforward relates to a tax year in which Company A was not a member of the combined group. . However, the combined group may share any current year excess BIE.

To apply the BIE limitation for Massachusetts corporation excise purposes the Companies should follow these steps:

Step 1: Determine each Company's separate BIE limitation.

Company A's separately determined BIE limitation is \$240 (30% of \$800) for Massachusetts purposes.

Company D's separately determined BIE limitation is \$360 (30% of \$1,200) for Massachusetts purposes.

Company E's separately determined BIE limitation is \$120 (30% of \$400) for Massachusetts purposes.

Step 2: Determine each Company's BIE limitation for combined filing purposes.

Company A has a separate BIE limitation of \$240, \$260 of current year BIE and a \$60 BIE carryforward from a prior year when it was not a member of its

current combined group. Company A is allowed a Massachusetts BIE deduction of \$240. Company A has \$20 of current year excess BIE to share with Companies D and E. Company A's \$60 BIE carryforward cannot be shared with Company D and Company E, but can be carried forward by Company A for use in a subsequent year by Company A.

Company D has a separate BIE limitation of \$360 and \$400 of BIE. Company D is allowed a Massachusetts BIE deduction of \$360. Company D has \$40 of excess BIE to share with Companies A and E.

Company E has a separate BIE limitation of \$120 and no BIE. Company E is allowed a BIE deduction of up to \$120 if another member has excess BIE or BIE carryforward. Company E is allowed to deduct Company A's \$20 of current year excess BIE and Company D's \$40 of excess BIE. Company E is not allowed to use Company A's BIE carryforward because it was generated in a year in which Companies A and E were not members of the same combined group.

Step 3: Determine Carryforward of BIE.

Company A was unable to use or share its \$60 BIE carryforward in Year 2. Therefore Company A may carry forward \$60 of BIE to Year 3, subject to the same limitations.

Neither Company D nor Company E has any excess BIE to carryforward. Company E's BIE limitation amount of \$60 is not carried forward.

Example 6: Application of the Massachusetts business interest expense add back rules.

In Year 3 Company A, Company B and Company C comprise a Massachusetts combined group and a federal consolidated group. Company A has \$800 of separately determined ATI. Company A's current year BIE is \$250 and it has no BIE carryforward. Company B has \$1,200 of separately determined ATI. Company B's current year BIE is \$500 and it has no BIE carryforward. Company C has \$200 of separately determined ATI. Company C's current year BIE is \$0 and it has no BIE carryforward.

Companies A and B have interest add back in Year 3 of \$50 and \$100, respectively.

Step 1: Determine each Company's separate BIE limitation.

Company A's separately determined BIE limitation is \$240 (30% of \$800) for Massachusetts purposes.

Company B's separately determined BIE limitation is \$360 (30% of \$1,200) for Massachusetts purposes.

Company C's separately determined BIE limitation is \$60 (30% of \$200) for Massachusetts purposes.

Step 2: Determine current year BIE deduction as adjusted by add back.

Company A's current year BIE deduction is determined by first reducing its \$250 of total BIE by the \$50 add back. The remaining \$200 of BIE is less than the Massachusetts BIE limitation of \$240. Company A is therefore allowed to deduct the full amount of its adjusted BIE of \$200. Company A is also potentially eligible for an additional Massachusetts BIE deduction of up to \$40 of any other member's BIE available to be shared.

Company B's BIE deduction is determined by first reducing its \$500 of total BIE by the \$100 add back. The remaining \$400 of BIE is greater than Company B's BIE limitation, so Company B is only permitted a deduction up to the amount of the BIE limitation of \$360. Company B's \$40 of excess BIE is available to be shared with other members.

Company C has a separate BIE limitation of \$60 and no BIE. Company C can deduct up to \$60 of any other member's BIE available to be shared.

Company B has \$40 in excess BIE for the current year. Neither Company A nor Company C exceeded their limitation, so the group may determine how to allocate Company B's excess BIE between A and C. Note that if any member of the group had BIE carryforward, the amount of current year excess BIE would have to be used before any carryover amount.

Step 3: Determine Carryforward of BIE to Year 4.

Companies A, B and C were able to deduct enough BIE to exhaust each of their BIE limitations. Companies A, B and C have no excess BIE and therefore no carryforward of BIE to Year 4.

I. Future Guidance

The Commissioner intends to issue additional guidance relating to the application of IRC § 163(j), including how the limitation applies to personal income taxpayers and pass-through entities.

/s/Christopher C. Harding
Christopher C. Harding
Commissioner of Revenue

CCH:RHF:mte

December 18, 2019

TIR 19-17

[\[1\] \(#_ftnref1\)](#) Floor plan financing is interest used to finance an inventory of motor vehicles held for lease or sale and secured by the acquired inventory.

[\[2\] \(#_ftnref2\)](#) Prior to its amendment in December 2017, the interest expense deduction limitation in IRC § 163(j) was only applicable to related party interest and was intended to combat the practice of earnings stripping. The Act repealed the earnings stripping rules and imposed a limitation on the deductibility of net business interest expense under new IRC § 163(j). The new limitation applies to all business interest expense, as defined in IRC § 163, and

is effective for taxable years beginning on or after January 1, 2018. There is no grandfathering for debt instruments outstanding prior to such date.

[\[3\]](#) ([#_ftnref1](#)) IRC § 163(j)(2).

[\[4\]](#) ([#_ftnref2](#)) IRS Notice 2018-28.

[\[5\]](#) ([#_ftnref3](#)) IRC § 163(j)(3).

[\[6\]](#) ([#_ftnref4](#)) IRC § 163(j)(7) (e.g., electing real property, electing farming business, certain utilities).

[\[7\]](#) ([#_ftnref5](#)) IRS Notice 2018-28, section 4.

[\[8\]](#) ([#_ftnref1](#)) Note that this will extend to foreign entities which claim exemption from the imposition of federal income tax but have sufficient nexus with Massachusetts to trigger the filing of a return.

[\[9\]](#) ([#_ftnref2](#)) For purposes of the small business exemption, the gross receipts test in IRC § 448(c) shall apply; including the aggregation rules contained therein.

[\[10\]](#) ([#_ftnref3](#)) Members of a Massachusetts combined group should also refer to sections E and F.

[\[11\]](#) ([#_ftnref4](#)) Excess BIE is equal to the total amount of an entity's current year BIE minus the amount of the BIE limitation, where the current year BIE is greater than the current year BIE limitation.

[\[12\]](#) ([#_ftnref1](#)) Unused current year BIE limitation is equal to the total amount of an entity's current year BIE limitation minus the amount of the current year BIE, where the current year BIE limitation is greater than the current year BIE.

REFERENCED SOURCES:

Massachusetts General Laws (<https://malegislature.gov/Laws/GeneralLaws>)